

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Stanley Keebler)	
	Dist. 10, Map 38P, Group E, Control Map 38P,)	Washington County
	Parcel 3.00)	
	Residential Property)	
	Tax Year 2006)	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$15,000	\$ -0-	\$15,000	\$3,750

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on October 17, 2006 in Jonesborough, Tennessee. In attendance at the hearing were Stanley Keebler, the appellant, and Washington County Property Assessor's representative John Sims.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved 33 x 913 lot located on Sunset Drive in Johnson City, Tennessee. The taxpayer purchased subject lot at a tax sale on March 27, 2001 for \$11,000.

The taxpayer contended that subject property should be valued at \$8,000. In support of this position, Mr. Keebler testified that when he purchased subject lot he was unaware that a prior deed provided in relevant part as follows:¹

The tract of land lying and being in the 10th Civil District of Washington County, Tennessee, and more particularly bounded and described as being a strip of land twenty five (25) feet in width, extending a distance of nine hundred thirteen (913) feet along the entire northeast side of the land conveyed in said deed dated September 29, 1959, is expressly excepted and reserved for the purpose only of a roadway twenty five (25) feet to be provided off the property conveyed to Our Savior Evangelical Lutheran Church of Johnson City, Tennessee, and the other twenty five (25) feet of the roadway to be provided off the adjoining property; and it is specifically understood and agreed that until the said property is used for [public] road purposes the same shall be the possession of and belong to Our Savior Evangelical Lutheran Church of Johnson City, Tennessee.

According to Mr. Keebler, the above provision effectively renders subject tract useless except for the church.

¹ The administrative judge has placed brackets around the word "public" because it is handwritten and not initialed.

The assessor contended that subject property should be valued at \$11,000. In support of this position, Mr. Sims argued that the taxpayer's purchase price constituted the best indicator of market value.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$11,000 absent additional proof from the taxpayer.

Since the taxpayer is appealing from the determination of the Washington County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that Mr. Keebler did not introduce any sales or other proof by which to quantify the possible loss in value attributable to the above-quoted deed provision. Moreover, the administrative judge finds that it is unclear whether the deed allows the tract to be used for a private road or only a public road.

Absent additional evidence from the taxpayer, the administrative judge finds that Mr. Keebler's purchase price should be adopted as the basis of valuation as recommended by Mr. Sims.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$11,000	\$-0-	\$11,000	\$2,750

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:


1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."**

Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 6th day of November, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Stanley Keebler
Monty Treadway, Assessor of Property